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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 IN RE:

18 MD 2865 (LAK)

4 CUSTOMS AND TAX ADMINISTRATION  
5 OF THE KINGDOM OF DENMARK  
6 (SKAT) TAX REFUND LITIGATION,

Conference

7 -----x  
8 New York, N.Y.  
9 October 5, 2021  
10 10:40 a.m.

11 Before:

12 HON. LEWIS A. KAPLAN,

District Judge

13 APPEARANCES

14 HUGHES HUBBARD & REED LLP  
15 Attorneys for Plaintiff SKAT  
16 BY: MARC WEINSTEIN  
CAROLYN HARBUS  
WILLIAM MAGUIRE

17 KOSTELANETZ & FINK, LLP  
18 Attorneys for Defendants Azalea Pension Plan, et al.  
19 BY: SHARON MCCARTHY  
20 NICHOLAS BAHNSEN

21 WILMER CUTLER PICKERING HALE AND DORR LLP  
22 Attorneys for Defendants Avanix Management LLC, et al.  
23 BY: ALAN SCHOENFELD  
ALLISON STODDART

24 POULOS LoPICCOLO P.C.  
25 Attorneys for Defendants Roger Lehman, et al.  
BY: JOSEPH LoPICCOLO

WILLIAMS & CONNOLLY LLP  
Attorneys for Defendants Sander Gerber and Sander Gerber  
Pension Plan  
BY: AMY MCKINLAY

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## APPEARANCES (Cont'd)

GUSRAE KAPLAN NUSBAUM PLLC

Attorneys for Defendants Goldstein defendants

BY: MARTIN H. KAPLAN

K&amp;L Gates LLP

Attorneys for Defendants DW Construction, et al.

BY: JOHN C. BLESSINGTON

BINDER &amp; SCHWARTZ LLP

Attorneys for Defendants ED&amp;F Man Capital Markets Ltd., et al.

BY: NEIL S. BINDER

GREG C. PRUDEN

KOSTELANETZ &amp; FINK, LLP

Attorneys for Defendants John Doscas, et al.

BY: SHARON MCCARTHY

MOORE TAX LAW GROUP LLC

Attorneys for Defendant Robert Klugman

BY: ZHANNA ZIERING (Telephonic)

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1 argument on appeal that even though the Dickey rule applies,  
2 it's within the Dickey's rule, the Dickey rule doesn't apply by  
3 virtue of this treaty.

4 In any event, presumably that argument will be heard  
5 in January, and if SKAT were successful, then the privilege  
6 issue would have to be addressed. So we don't think there's  
7 any urgency for resolution.

8 THE COURT: I've rarely met a defendant who did.

9 MR. BINDER: But in part we're not even defendants  
10 here, and that's part of why there's no urgency. The issue of  
11 the documents relates to a series of subset of approximately 80  
12 tax vouchers which ED&F has acknowledged incorrectly stated  
13 that the pension plans were entitled to a withholding reclaim  
14 or, as it's stated, that they suffered withholding tax.

15 ED&F acknowledges that here what these documents  
16 involve are counsel's investigation in connection with FCA --  
17 or to the FCA, which could give rise to litigation, and those  
18 are all English law privilege issues. The other set are board  
19 presentations and minutes by counsel.

20 THE COURT: I know you want to sum up to the jury, but  
21 I haven't got time for it.

22 Thank you. You've answered my question.

23 MR. BINDER: Thank you, your Honor.

24 THE COURT: Well, I have one more question, and I'll  
25 hear from both sides on it.